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trial. Now a jury in a criminal case may be faced with hundreds and, likely, thousands of facts, which they have to determine, is this true, is it not true, is it questionable, does it throw some light upon the factual situation, and to put something in the law that a finder of fact, whether it's...

SPEAKER WITHEM: One minute.

SENATOR MATZKE: ...a jury in a jury case, or a judge in a sentencing case, has to find each single fact proved beyond a reasonable doubt would put an impossible burden on the trier of facts, which in this case would be the court. So I think we have to be very, very careful. If you wish to change your amendment to read that aggravating circumstances must be proved beyond a reasonable doubt, that I could support, because the courts have clearly said that.

SPEAKER WITHEM: Thank you, Senator Matzke. Senator Witek. Senator Witek waives off. Senator Chambers.

SENATOR CHAMBERS: Mr. Speaker and members of the Legislature, I cited the wrong case. The case that should have been cited for the language that I'm using would be State v. Ryan, 233 Neb. 74, and the language from that case, the facts upon which the applicability of an aggravating fact would depend must be proved beyond a reasonable doubt, and I'm going to pass this back down to Senator Matzke. Here's what I think is not being completely clear here. Let's say, as Senator Matzke stated, that there are literally thousands of facts in a criminal case that are presented. I don't disagree with that. And let's say the jury rejects a large number of those facts. We don't even look at those. What the court does look at is the fact that the jury is saying this individual is guilty beyond a reasonable doubt based upon the existence of the facts that we do think were proved beyond a reasonable doubt. If the jury relies on facts which will be shown not to have been proved beyond a reasonable doubt, the jury's decision cannot stand. You look at what the jury actually relied on, not what they didn't rely on or could have relied on, and that's why sometimes the court will say, if it's unsure or uncertain exactly what the jury did rely on in reaching its decision, or unsure what a judge relied on, if it's a judge sitting without a jury, the court will say it is